

§518.11

(3) See subpart C of this part for guidance on release determinations of computer software.

(d) A record must exist and be in the possession and control of the Department of Defense at the time of the request to be considered subject to this Regulation and the FOIA. There is no obligation to create, compile, or obtain a record to satisfy an FOIA request.

(e) If unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials are available to the public through an established distribution system with or without charge, the provisions of 5 U.S.C. 552(a)(3) normally do not apply and they need not be processed under the FOIA. Normally, documents disclosed to the public by publication in the FEDERAL REGISTER also require no processing under the FOIA. Components should direct the requester to the appropriate source to obtain the record.

[56 FR 48932, Sept. 26, 1991, as amended at 56 FR 56010, Oct. 31, 1991]

§518.11 DoD component.

An element of the Department of Defense, as defined in §518.4, authorized to receive and act independently on FOIA requests. A DoD Component has its own initial denial authority (IDA) or appellate authority, and general counsel. The Department of the Army is a DOD Component.

§518.12 Initial denial authority (IDA).

An official who has been granted authority by the head of a DoD Component to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure. The Department of the Army's Initial Denial Authorities are designated in §518.58(d).

§518.13 Appellate authority.

The Head of the DoD Component or the Component head's designee having jurisdiction of this purpose over the record. The Department of the Army's appellate authority is the Office of General Counsel.

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§518.14 Administrative appeal.

A request by a member of the general public, made under the FOIA, asking the appellate authority of a DoD Component to reverse an IDA decision to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

§518.15 Public interest.

Public interest is official information that sheds light on an agency's performance of its statutory duties because the information falls within the statutory purpose of the FOIA in informing citizens about what their government is doing. That statutory purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files that reveals little or nothing about an agency's or official's own conduct.

§518.16 Electronic data.

Electronic data are those records and information which are created, stored, and retrievable by electronic means. This does not include computer software, which is the tool by which to create, store, or retrieve electronic data. See §518.10 (b)(2) and (c) for a discussion of computer software.

§518.17 Law enforcement investigation.

An investigation conducted by a command or agency for law enforcement purposes relating to crime, waste, or fraud or for national security reasons. Such investigations may include gathering evidence for criminal prosecutions and for civil or regulatory proceedings.

POLICY

§518.18 Compliance with the FOIA.

DoD personnel are expected to comply with the provisions of the FOIA and this Regulation in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.